

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on March 23, 2001 at 7:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrupf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 396, 3/14/2001; SB 397,
3/14/2001; SB 472, 3/14/2001
Executive Action: None

HEARING ON SB 396 & 397

Sponsor: SENATOR LORENTS GROSFIELD, SD 13, BIG TIMBER

Proponents: Tammy Johnson, League of Rural Voters
John Youngberg, Montana Farm Bureau
Webb Brown, Montana Chamber of Commerce
Ellen Engstest, Montana Wood Products
Association
Mark Taylor, Montana Alternative Livestock
Producers
Ronda Carpenter, Montana Housing Providers
Eric Fever, MEA-MFT
Ken Mesaros, Citizen
Jean Johnson, Montana Outfitters and Guides
Association
Frank Crowley, SARCO

Opponents: Stan Frasier, Sportsman for I-143
David Pounder, MPERG
Patrick Judge, Montana Environmental
Information Center
Jeff Barber, Montana Wildlife Federation
Doug Mitchell, Montana Conservation Voters
Education Fund
Roberta Cross Guns, Common Cause
Pam Busey, Attorney General
Mark Mackin, Advocate
Hal Harper, Citizen

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.0}

SENATOR LORENTS GROSFIELD, SD 13, BIG TIMBER said the two bills are very similar. One effects ballot initiatives for stagitory changes and the other effects ballot initiatives for constitutional changes. Currently the way you gather signatures to make a stagitory change is to gather 5% of signature from at least 1/3 of the legislative districts (34). These bills change that from having to gather them by legislative districts to gathering them by counties. It changes from 34 legislative districts to half the counties. The reason for doing this to

give rural and small counties the opportunity to participate in the imitative process. He submitted and discussed a Constitutional Initiatives & Referendum graph of a ten year period

EXHIBIT (sth66a01) and an amendment. **EXHIBIT (sth66a02)**

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 9.9}

Tammy Johnson, League of Rural Voters said the law making decision impacts all 56 counties and with that being the case when a proposed imitative is moved to the people of the state, it demands that the opinions and desires of people throughout the state are sought out, heard, and included in the process. She feels these bills are about the principle of fairness and the right of citizens to have more input and more involvement in the process. Many imitative that have been before the public in recent times have real impact on people and the communities that they live.

John Youngberg, Montana Farm Bureau represents a group of people who are mostly rural people. In the past imitative process, they have seen a tremendous amount of influence brought by urban people on issues that effect the rural people. This bill provides a more represented picture of Montana when they get rural peoples signatures on petitions.

Webb Brown, Montana Chamber of Commerce rises in support of both bills. The point of the bills are to get out to the people and hear their opinions.

Ellen Engstest, Montana Wood Products Association said many of there member companies are from rural communities and they are frustrated by being disenfranchised because of the imitative process.

Mark Taylor, Montana Alternative Livestock Producers stated they are the group of farmers and ranchers in the state of Montana who have diversified their family farms to include raising elk and other domestic servants. These bills allow rural Montanans to be involved in the signature collection process and feels it is crucial to have rural Montanans heard on issues.

Ronda Carpenter, Montana Housing Providers state that most of Montanans don't understand half of the initiatives being debated and doesn't seem fair to the people she represents to put a complicated issue on ballot, forcing small businesses to defend themselves. They firmly believe in the initiative process and feels if there is an issue it should be debated, but does not see the fairness when people in only two or three communities can force small business to spend thousands of dollars to defend their livelihood to be able to stay in business.

Eric Fever, MEA-MFT said the industry he represents are very public in nature and have suffered their own initiative ballots. They feel these bills have good ideas and hopes they are moved forward.

Ken Mesaros, Citizen told the committee he has been involved in two different initiatives, so he does have experience in the initiative area. Establishing policy in the State of Montana is very serious business and in interest in fairness there needs to be a wide-spread understanding of the issues that are getting forwarded for consideration. He feels in the interest of more wide-spread understanding of issues that impact many lives and livelihood that these bills are a step in the right direction.

Jean Johnson, Montana Outfitters and Guides Association rose in support of both bills. For the association, they feel it is going to be the most important piece of legislation that will come out of this session and encouraged the committee to pass it out of the committee and allow it to go to the house.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 28.9}

Stan Frasier, Sportsman for I-143 told the committee the title on the bills should be changed to say decreased voter participation. People collect signatures from the bigger cities because that is where the signatures are. Initiatives are typically done by volunteers with a limited amount of money and feels that none of the people in support of these bills have never done an imitative. Initiatives are very hard to do and take a lot of work, time and commitment to get signature so the issues can go on the ballot.

David Pounder, MPERG said Montana is in a period of rapid transition in the distribution of its' population and feels everybody's vote should be counted the same. If the signatures are redistributed to favor rural counties, then the who principal is being thrown out the window.

Patrick Judge, Montana Environmental Information Center said he has personally petitioned on three separate occasions and found each time he went out, it was harder to find a company or post office who would allow them to petition. Companies who previously allowed them to petition became more and more weary of allowing them access. This is a very already a difficult process and he asked that it not be made more difficult.

Jeff Barber, Montana Wildlife Federation stated if these two bills are being considered for passage, then there should be some consideration of making changes in the legislature as well. He thinks it is unfair that only one legislature representing only one legislative district can propose a bill. At least with an initiative signatures have to be collected from 33 legislative districts. He feels **SENATOR GROSFIELD** should have to get signatures on his bills from legislators representing at least 40 legislative districts before he could introduce them. If these changes are made he feels they would be disenfranchising where most of the people in the state live.

Doug Mitchell, Montana Conservation Voters Education Fund feel this is a logical solution which is definitely in search of a problem and feels the current initiative process in Montana works well for conservative causes and liberal causes. Since the new constitution there have been 67 proposed imitative and only 24 of those have actually became law. He clarified it is not about the signature gathering process because the signature gathering process does not pass any imitative, but is about the outcome of an election where everyone can vote including rural and urban.

Roberta Cross Guns, Common Cause said she has lived in a lot of rural areas in her life. Rural areas usually consist of a post office and they are not a place to shop. She would do her shopping in Missoula, Bozeman, or Billings and it was there she had signed a lot of petitions, not in Wisdom or Prey, or any other rural town. She never felt she was left out of the process. She was able to participate because there was a central place where all Montanans go.

Pam Busey, Attorney General stated the bill does make it harder to get an initiative on the ballot and feels there are also a lot of legal issues with the bills

Mark Mackin, Advocate told the committee he wanted them to know that while Montana does have a geographic requirements for signature gathering and some other states have geographic requirements for signature gathering, half of the states have no geographic requirements at all. The origin of the geographic requirement was to prevent a single large urban center from dominating politics of the state. In 1906, the single large urban center was Butte, with 65,000 people out of a population of 243,000 in the State of Montana. Butte had 1/4 of the population in the State of Montana. 1906 was the year the imitative was brought in and what drove the geographic requirement as part of the imitative process. He said there is no longer a need to fear Butte or any other large urban center. Submitted written testimony. **EXHIBIT(sth66a10)**

Hal Harper, Citizen said he was a member of the consensus council process that under took a study of the imitative process through the interim. The consensus found the imitative process not broken, but found things that could be done better.

Proponents' Testimony (Arrived Late):

Frank Crowley, SARCO commented in 1996 SARCO had a 30 million dollar investment nearly wiped out by Initiative 122, which was an anti-mining initiative. He feels one of the most important things that Montana can do is to maintain a stable regulatory environment. The repercussions of Imitative 122 went far beyond the particular project and industry and actually did quite a bit to destabilize the regulatory climate in the state. SARCO respects the rights of citizens to petition and to have the imitative process, however, the imitative process does not reach the Eastern part of the state and causing them to feel disenfranchised. SARCO is in support of both bills for providing for stability and the way of laws and policies are made that effect the industries.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 27.0}

REPRESENTATIVE SMITH asked **Mark Mackin** if he respects the rural Americans right to vote, then what was wrong with rural Americans signing petitions. **Mark Mackin** replied there is nothing wrong with them signing petitions, if they take the measure to be on the ballot.

REPRESENTATIVE LEHMAN paraphrased a comment from **Stan Frasier**, that the legislature is over weighted with rural representatives. He then asked him what he had meant by that comment. **Stan Frasier** replied that in the last few days he was sitting in committee hearings, he thumbed through the Legislative Guide book and in the House there are 21 farmers and ranchers and in the Senate there are 12 farmers and ranchers. The last figure he checked several years ago showed that 5% of the states population lives on farms and ranches and from what he sees there are four times as many farmers and ranchers in the Legislature the population the state reflects. The farmers and ranchers community is not under represented in the legislature, it is over represented and yet these people feel disenfranchised because occasionally an imitative gets passed that they do not agree with he feels it is incorrect.

REPRESENTATIVE MASOLO said a comment was made that rural areas are losing population. She then asked **David Pounder** why he felt they were losing population. **David Pounder** replied because there are more economic opportunities in urban areas and is a continuing geographic change since the turn of the 19th centuries. **REPRESENTATIVE MASOLO** asked if he thought any past initiatives have effected that. **David Pounder** replied no. **REPRESENTATIVE MASOLO** then asked him if he felt any of the mines have closed due to initiatives. **David Pounder** stated no, he believes what happens in the mining industry is global markets that are driving down the price of commodities and feels they do not have a competitive product to put on the market.

REPRESENTATIVE MOOD told **Stan Frasier** there are currently 7 teachers sitting on this specific committee and then asked him if he felt teachers are over represented. **Stan Frasier** stated absolutely. It would be nice to have representation that truly reflected the population of the state. Unfortunately most people

can not run for the legislature because they have a normal job and cannot afford to take the time off. An individual making \$10.00 an hour and has a house payment cannot afford to take of 3 month to go to the capital and receive the minimal pay legislatures receive. He wishes legislatures were paid sufficiently so anyone could afford to run for the positions.

REPRESENTATIVE DELL asked if the minority has rights in the process just like the rights of the majority in the process. **Stan Frasier** replied absolutely and that is what the legislature does best is represent the minority.

REPRESENTATIVE JENT asked how many votes were cast for governor in the last election. **Janice Dogget** said did not have the answer but would get it.

REPRESENTATIVE JENT asked for the average amount of people who vote in a legislative district. **Doug Mitchell** replied if there were 9,000 people in a legislative district of whom 70 percent is going to be adults. He would be looking at an adult population in a legislative district to be about 6,000 with the voter turn out in montana at just above 50%, therefore about 3,000 people vote.

REPRESENTATIVE RASER asked **Sherif Heffelfinger** for some information and Agreement Document. **EXHIBIT(sth66a03)** She then asked if they feel there is a balance or rural and urban within the make up of the legislators. **Hal Harper** replied yes. She then asked if they feel there is a balance with both the house and senate between liberal and conservatives. **Hal Harper**, again replied yes. She then clarified that both of the balance

REPRESENTATIVE JENT had a discussion with **Janice Doggit**
(Conversation could not be understood)

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 4.7}

SENATOR GROSFIELD said the reason for the distribution in the first place was to prevent a single large urban center from dominating the agenda. This bill is continuing that on. The decision in the committee or the house is not to pass this and put it into constitution. This would have to go to the vote of

the people. These are fairness issues and about participation of allowing rural Montanans in setting the agenda or not. It is an issue of whether the bill is significant enough to go on ballot.

HEARING ON SB 472

Sponsor: SENATOR LORENTS GROSFIELD, SD 13, BIG TIMBER

Proponents: Eric Fever, MEA-MFT
Frank Crowley, SARCO

Mark Taylor, Montana Alternative Livestock
Producers
Ken Mesaros, Citizen
Don Allen, Western Environmental Trade Association
Bob Spoklie, Rancher
Tammy Johnson, League of Rural Voters
Ellen Engstest, Montana Wood Products Association
Jean Johnson, Montana Outfitters and Guides
Association
Webb Brown, Montana Chamber of Commerce
Jim Mockler, Montana Coal Council

Opponents: Pam Busey, Attorney General
Doug Mitchell, Montana Conservation Voters
Education Fund
Robert Cross Guns, Common Cause
David Pounder, MPERG
Patrick Judge, MEIC
Mark Mackin, Advocate
Stan Frasier, Sportsman for I-143
Jeff Barber, Montana Wildlife Federation
Carole Mackin, Citizen
Mike Fellows, Montana libertarian Party

Informational: Janice Dogget, Secretary of States Office

Opening Statement by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 18.8}

SENATOR LORENTS GROSFIELD, SD 13, submitted and discussed the changes to his grey bill. **EXHIBIT**(sth66a04)

Proponents' Testimony:

{Tape : 3; Side : A; Approx. Time Counter : 0.0}

Eric Fever, MEA-MFT discussed sections 8 and 14 of the bill to the committee.

Frank Crowley, SARCO said a 30 million dollar project of SARCO was almost wiped out by an initiative, called the clean water initiative. He then discussed the indecent with the committee. He said the bill is basically quality control for initiatives and SARCO supports it.

Mark Taylor, Montana Alternative Livestock Producers submitted written testimony. **EXHIBIT (sth66a05)**

Ken Mesaros, Citizen told the committee he has been involved in a few initiatives. He feels they need to preserve the initiative process for the check and balances needed in the democracy. It the general public is going to vote on an issue, they need to have accurate and reliable information and all the facts. Most people turn to their voter information pamphlet for information, and in his experience with the last initiative, the information in the voter information pamphlet may have been referred to as a misinformation pamphlet. The bill address some of the problems by requiring and analysis, fiscal statement, an attorney general to review the petition for legal defects and requires the voter information pamphlet only contain information that is legally accurate.

Don Allen, Western Environmental Trade Association said they urge the committees support for the reasons already heard.

Bob Spoklie, Rancher stated he does not think there is one family in the State of Montana and the family's employees have been more effected by the initiative process in the last year. He feels the initiative process has been abused and misinformation brought forth. He submitted information. **EXHIBIT (sth66a06)**

Tammy Johnson, League of Rural Voters commented that SB 472 is deserving in support and is important to their process, then urged the committees support.

Ellen Engstest, Montana Wood Products Association told the committee they too support this piece of legislation.

Jean Johnson, Montana Outfitters and Guides Association were in strong support of the bill.

Webb Brown, Montana Chamber of Commerce urged a do pass on the bill.

Jim Mockler, Montana Coal Council firmly supports the bill

Opponents' Testimony:

{Tape : 3; Side : B; Approx. Time Counter : 0.0}

Pam Busey, Attorney General said if the bill passes there will be a lot of time wasted by the court and by the people on the constitutionality of the bill on a measure that may never be enacted. They fill the bill also creates an enormously cumbersome process for approval of initiative measures.

Doug Mitchell, Montana Conservation Voters Education Fund stated the committee feels this is an inherit right in body politic who's constitution is to be the embodiment of the will of the people. That constitution gave everyone the right to initiative and the bill seeks to make it way harder for individuals to exercise the right.

Roberta Cross Guns, Common Cause told the committee they stand opposed to the bill. They love Montana because it has an open government where they can all come and talk and disagree and challenge what others are talking about. There should be constitutional challenges and feels good government is not an easy cut and dried government, it is participation in voting, initiatives and testifying in hearings.

David Pounder, MPERG discussed his opposition to the bill and submitted written testimony on behalf of Robert Natelson.

EXHIBIT (sth66a07)

Patrick Judge, MEIC said the bill seeks to dramatically alter the people's process without giving the people the chance to speak on it. He feels this bill discourages or shuts down the initiative process.

Mark Mackin, Advocate asked the committee to exercise their constitutional authority in addressing the bill. He then read what the committee's authority was by reading out of the constitution.

Stan Frasier, Sportsman for I-143 discussed the difficulty the bill would cause by setting up requirements for citizens initiatives. He feels the intent of the bill is to make it so difficult for citizens initiatives that it would be impossible to continue doing them.

Jeff Barber, Montana Wildlife Federation told the committee they are opposed to the bill.

Carole Mackin, Citizen submitted written testimony.

EXHIBIT(sth66a08)

Mike Fellows, Montana libertarian Party submitted written testimony. **EXHIBIT**(sth66a09)

Informational:

Janice Dogget, Secretary of State, said they have worked with the Sponsor on some amendments to the bill that have been done and are satisfied. She told the committee she would be available for questions if there were any.

Questions from Committee Members and Responses:

{Tape : 3; Side : B; Approx. Time Counter : 23.3}

REPRESENTATIVE HEDGES asked **Eric Fever** if he preferred a public hearing where an issue would be publicly debated rather than have them as a ballot measure. **Eric Fever** replied yes.

REPRESENTATIVE HEDGES asked him to expand on the merit of that. **Eric Fever** replied he firmly believes the public does not know much about ballot questions when presented to them at elections and the only way to get that information to them would be by public hearings.

REPRESENTATIVE MOOD asked **Stan Frasier** if his organization believes I-143 is constitutional. **Stan Frasier** said yes, they had several lawyers look at it when it was drafted and before it was submitted. Their opinion was that it was constitutional.

REPRESENTATIVE MOOD then asked if he had any written legal analysis prepared by any attorneys. **Stan Frasier** said he did not have any.

REPRESENTATIVE MOOD asked for a history of the information obtained in the voters information pamphlet of whether it was correct or incorrect. **Mark Taylor** gave an example of an incident of misinformation of a TB break out in Canada.

REPRESENTATIVE RIPLEY asked the sponsor if when having the bill drafted, was there any concerns of it being unconstitutional. **SENATOR GROSFIELD** said that **David Niss** drafted the bill and had no concerns of the bill be unconstitutional. He explained that the bill was drafted after a bill the committee heard last session.

REPRESENTATIVE LEHMAN asked **Doug Mitchell** how many members his organization consisted of. **Doug Mitchell** said 1,300 members

REPRESENTATIVE LEHMAN asked **Patrick Judge** how many members his organization consisted of. **Patrick Judge** replied 3,000 Montana members and 4,000 members total

REPRESENTATIVE OLSON asked **Stan Frasier** who did the legal analysis on I-142. **Frasier** said they had a lawyer from the National Wildlife Federation look at it and another lawyer in Missoula looked at it by the name of Tom France.

REPRESENTATIVE JENT had a discussion with

Closing by Sponsor:

{Tape : 3; Side : B; Approx. Time Counter : 26.6}

SENATOR GROSFIELD submitted and discussed information on a Calendar for General Election Ballot Issues. **EXHIBIT(sth66a11)**, Proposed Calendar for General Election Ballot Issues Amendments **EXHIBIT(sth66a12)** and Proposed Calendar for General Election Ballot Issues **EXHIBIT(sth66a13)**

ADJOURNMENT

Adjournment: 10:54 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth66aad)